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HOUSE BILL 675

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

J. Paul Taylor

AN ACT

RELATING TO TELECOMMUNICATIONS; TRANSFERRING THE DUTIES AND
POWERS OF THE GENERAL SERVICES DEPARTMENT TO CARRY OUT THE
PROVISIONS OF THE TELECOMMUNICATIONS ACCESS ACT TO THE
COMMISSION FOR DEAF AND HARD-OF-HEARING PERSONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 63-9F-1 NMSA 1978 (being Laws 1993,
Chapter 54, Section 1) is amended to read:

"63-9F-1. SHORT TITLE. -- [~~This act~~] Chapter 63, Article 9F
NMSA 1978 may be cited as the "Telecommunications Access Act". "

Section 2. Section 63-9F-3 NMSA 1978 (being Laws 1993,
Chapter 54, Section 3, as amended) is amended to read:

"63-9F-3. DEFINITIONS. -- As used in the Telecommunications
Access Act:

A. "commission" means the commission for deaf and

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1 hard-of-hearing persons;

2 B. "communications assistant" means an individual
3 who translates conversation from text to voice and from voice
4 to text between two end users of a telecommunications service;

5 [~~C.~~] "~~department~~" ~~means the general services~~
6 ~~department;~~

7 ~~D.~~] C. "impaired" means having an impairment of or
8 deficit in the ability to hear or speak, or both;

9 [~~E.~~] D. "intrastate telephone services" means all
10 charges for access lines, special services and intrastate toll
11 services, including all calls originating and terminating in
12 the state;

13 [~~F.~~] E. "specialized telecommunications equipment"
14 means devices that when connected to a telephone enable or
15 assist an impaired individual to communicate with another
16 individual using the telephone network;

17 [~~G.~~] F. "telecommunications company" means an
18 individual, corporation, partnership, joint venture, company,
19 firm, association, proprietorship or other entity that provides
20 public telecommunications services, and includes cellular
21 service companies as defined in Subsection B of Section 63-9B-3
22 NMSA 1978; and

23 [~~H.~~] G. "telecommunications relay system" means a
24 statewide telecommunications system through which an impaired
25 individual using specialized telecommunications equipment is

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1 able to send or receive messages to and from an individual who
2 is not impaired and whose telephone is not equipped with
3 specialized telecommunications equipment and through which the
4 unimpaired individual is able, by using voice communications,
5 to send and receive messages to and from an impaired person. "

6 Section 3. Section 63-9F-6 NMSA 1978 (being Laws 1993,
7 Chapter 54, Section 6) is amended to read:

8 "63-9F-6. TELECOMMUNICATIONS RELAY SYSTEM --

9 A. The [~~department, in consultation with the~~]
10 commission shall [~~establish~~] administer a telecommunications
11 relay system that enables impaired individuals to communicate
12 with unimpaired individuals. [~~The department shall implement~~
13 ~~the telecommunications relay system no later than July 26,~~
14 ~~1993.~~]

15 B. The [~~department, after consultation with the~~]
16 commission shall invite proposals or bids, or both, from
17 telecommunications companies to design and implement a
18 telecommunications relay system. The [~~department~~] commission
19 shall comply with the provisions of the Procurement Code in
20 contracting for the services and property required. [~~It~~] The
21 commission shall consider the factors of price and the interest
22 of the community of impaired individuals in having access to a
23 high quality and technologically advanced system. New Mexico
24 residency shall be given a weight of five percent of the total
25 weight of all evaluation factors in a proposal evaluation. Any

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1 business that qualifies as a "resident business" as defined in
2 Section 13-1-21 NMSA 1978 shall receive a five percent
3 preference. In the procurement process, ~~[it]~~ the commission
4 shall request and consider the recommendations of the
5 ~~communications~~ assistants who have provided the voice relay
6 service used in the state prior to the effective date of the
7 Telecommunications Access Act.

8 C. If the ~~[department]~~ commission determines that
9 no proposal or bid is acceptable after review, the ~~[department]~~
10 commission may provide the telecommunications relay system

11 D. The telecommunications relay system shall:

12 (1) be available statewide for operation
13 twenty-four hours a day every day of the year;

14 (2) relay all messages promptly and
15 accurately;

16 (3) protect and maintain the privacy of
17 individuals using the system;

18 (4) preserve the confidentiality of all
19 telephone ~~communications~~; and

20 (5) conform to all applicable standards
21 established by state and federal laws and any regulations
22 adopted pursuant to those laws."

23 Section 4. Section 63-9F-8 NMSA 1978 (being Laws 1993,
24 Chapter 54, Section 8, as amended) is amended to read:

25 "63-9F-8. COMMISSION DUTIES AND POWERS. -- ~~[The commission~~

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1 ~~shall advise the department concerning the administration of~~
2 ~~the specialized telecommunications equipment program and the~~
3 ~~telecommunications relay system.]~~

4 A. The commission shall:

5 ~~[A.—create]~~ (1) adopt policies, procedures
6 and regulations ~~[governing the administration of]~~ to carry out
7 the provisions of the Telecommunications Access Act;

8 (2) administer the specialized
9 telecommunications equipment program, ~~[and review and~~
10 ~~recommend]~~ adopt policies, procedures and regulations governing
11 the administration of the telecommunications relay system and
12 ensure that the program and relay system are in compliance with
13 state and federal laws;

14 ~~[B.—assist the department in obtaining]~~ (3)
15 obtain certification from the federal communications commission
16 that the telecommunications relay system is in compliance with
17 applicable federal rules and regulations;

18 ~~[C.—review and comment upon the department's budget~~
19 ~~request for administration of the specialized~~
20 ~~telecommunications equipment program and the telecommunications~~
21 ~~relay system;~~

22 ~~D.]~~ (4) monitor expenditures for the
23 specialized telecommunications equipment program and the
24 telecommunications relay system;

25 ~~[E.]~~ (5) monitor the quality of the

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1 telecommunications relay system and the satisfaction of its
2 users;

3 ~~[F.]~~ (6) identify the need for specialized
4 telecommunications equipment by impaired individuals;

5 ~~[G.]~~ (7) identify the problems that impaired
6 individuals have in acquiring specialized telecommunications
7 equipment;

8 ~~[H. obtain funding for the specialized
9 telecommunications equipment program;]~~ and

10 ~~[I.]~~ (8) perform other duties necessary ~~[to
11 advise the department]~~ in the administration of the provisions
12 of the Telecommunications Access Act.

13 B. The commission may require an annual audit of
14 each telecommunications company participating in the
15 telecommunications relay system to account for all surcharges
16 billed and collected pursuant to the Telecommunications Access
17 Act."

18 Section 5. Section 63-9F-9 NMSA 1978 (being Laws 1993,
19 Chapter 54, Section 9) is amended to read:

20 "63-9F-9. LIMIT ON LIABILITY. --The commission, ~~[the~~
21 ~~department]~~ the provider of the telecommunications relay system
22 and their employees shall not be liable for any claims,
23 actions, damages or causes of action arising out of or
24 resulting from the establishment, participation in or operation
25 of the telecommunications relay system except for gross

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1 negligence or intentional acts."

2 Section 6. Section 63-9F-11 NMSA 1978 (being Laws 1993,
3 Chapter 54, Section 11, as amended) is amended to read:

4 "63-9F-11. IMPOSITION OF SURCHARGE. --

5 A. A telecommunications relay service surcharge of
6 thirty-three hundredths [~~of one~~] percent is imposed on the
7 gross amount paid by customers for:

8 (1) intrastate telephone services, other than
9 mobile telecommunications services, provided in this state; and

10 (2) intrastate mobile telecommunications
11 services that originate and terminate in the same state,
12 regardless of where the mobile telecommunications services
13 originate, terminate or pass through, provided by home service
14 providers to customers whose place of primary use is in New
15 Mexico.

16 B. The telecommunications relay service surcharge
17 shall be included on the monthly bill of each customer of a
18 local exchange company or other telecommunications company
19 providing intrastate telephone services or intrastate mobile
20 telecommunications services and paid at the time of payment of
21 the monthly bill. Receipts from selling a service to any other
22 telecommunications company or provider for resale shall not be
23 subject to the surcharge. The customer shall be liable for the
24 payment of this surcharge to the local exchange company or
25 other telecommunications company providing intrastate telephone

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1 services to the customer. For the purposes of [~~this~~
2 ~~subsection~~] Subsections A and B of this section, "home service
3 provider", "mobile telecommunications services" and "place of
4 primary use" have the meanings given in the federal Mobile
5 Telecommunications Sourcing Act.

6 [~~B.—Every~~] C. A telecommunications company
7 providing intrastate telephone services shall be responsible
8 for assessing, collecting and remitting the telecommunications
9 relay service surcharge to the taxation and revenue department.
10 The amount of the telecommunications relay service surcharge
11 collected by a telecommunications company shall be remitted
12 monthly to the taxation and revenue department, on or before
13 the twenty-fifth of the month following collection, which shall
14 administer and enforce the collection of the surcharge pursuant
15 to the provisions of the Tax Administration Act.

16 [~~C.—~~] D. The taxation and revenue department shall
17 remit to the telecommunications access fund the amount of the
18 telecommunications relay service surcharge collected less any
19 amount deducted pursuant to the provisions of Subsection [~~D~~] E
20 of this section. Transfer of the net receipts from the
21 surcharge to the telecommunications access fund shall be made
22 within the month following the month in which the surcharge is
23 collected.

24 [~~D.—~~] E. The taxation and revenue department may
25 deduct an amount not to exceed three percent of the

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1 telecommunications relay service surcharge collected as a
2 charge for the administrative costs of collection, which amount
3 shall be remitted to the state treasurer for deposit in the
4 general fund each month.

5 ~~[E.]~~ F. The ~~[general services department]~~
6 commission shall report to the revenue stabilization and tax
7 policy committee annually by September 30 the following
8 information with respect to the prior fiscal year:

9 (1) the amount and source of revenue received
10 by the telecommunications access fund;

11 (2) the amount and category of expenditures
12 from the fund; and

13 (3) the balance of the fund on that June 30."

14 Section 7. Section 63-9F-12 NMSA 1978 (being Laws 1993,
15 Chapter 54, Section 12) is amended to read:

16 "63-9F-12. TELECOMMUNICATIONS ACCESS FUND--
17 ESTABLISHED.--There is created in the state treasury the
18 "telecommunications access fund". Money appropriated to the
19 fund or accruing to it through gifts, grants, fees, surcharges,
20 penalties or bequests shall be delivered to the state treasurer
21 for deposit in the fund. The fund shall be invested as other
22 state funds are invested. Disbursements from the fund shall be
23 made upon warrants drawn by the secretary of finance and
24 administration pursuant to vouchers signed by the ~~[secretary of~~
25 ~~general services]~~ executive director of the commission. The

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1 [department] commission shall administer the fund. Money in
2 the fund is appropriated for the purpose of carrying out the
3 provisions of the Telecommunications Access Act. The
4 [~~department and the~~] commission may request the state budget
5 division of the department of finance and administration to
6 approve the expenditure of funds deposited in the
7 telecommunications access fund for the purpose of defraying
8 salary and other necessary expenses incurred by the [~~department~~
9 ~~and the~~] commission in the administration of the provisions of
10 the Telecommunications Access Act. [~~The budget division may~~
11 ~~approve the expenditure of not more than ten percent of the~~
12 ~~amount deposited in the telecommunications access fund during~~
13 ~~any fiscal year for administrative expenses.~~] Any unexpended
14 or unencumbered balance remaining in the fund at the end of any
15 fiscal year shall not revert."

16 Section 8. REPEAL.--Section 63-9F-7 NMSA 1978 (being Laws
17 1993, Chapter 54, Section 7) is repealed.

18 Section 9. EFFECTIVE DATE.--The effective date of the
19 provisions of this act is July 1, 2003.